

APPEAL NO. 040155  
FILED FEBRUARY 25, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 5, 2004. The hearing officer resolved the disputed issues by deciding that the respondent's (claimant) compensable injury of \_\_\_\_\_, includes an injury to his neck and low back; and that as a result of his compensable injury, the claimant had disability from August 2 to October 8, 2003, and from October 11 to November 2, 2003. The appellant (carrier) appeals, contending that the hearing officer's determinations on the disputed issues are not supported by sufficient evidence and are against the great weight and preponderance of the evidence. The claimant asserts that sufficient evidence supports the hearing officer's decision and that the decision is not against the great weight and preponderance of the evidence.

DECISION

Affirmed.

The claimant had the burden to prove that his compensable injury includes an injury to his neck and low back and that he had disability as defined by Section 401.011(16). It is undisputed that the claimant sustained a compensable injury on \_\_\_\_\_, when he was filling a truck tire with air and the tire exploded. The claimant testified that the rim of the tire hit him in the head and that he was knocked back 10 to 20 feet and landed on his lower back on a big floor jack. The claimant testified that he injured his back and neck in that accident. The hospital emergency room records noted a lacerated scalp and back pain. We agree with the carrier that the emergency room records reflect no neck pain. However, the treating doctor's reports note both back and neck pain, and the treating doctor diagnosed injuries to the neck and lower back. It has been held that in workers' compensation cases, the issues of injury and disability may generally be established by the testimony of the claimant alone. Houston General Insurance Company v. Pegues, 514 S.W.2d 492 (Tex. Civ. App.-Texarkana, writ ref'd n.r.e.). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence on the issues of the extent of the compensable injury and disability, the hearing officer's decision is supported by the claimant's testimony and by the reports of the treating doctor. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **FEDERATED MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSS LARSEN  
860 AIRPORT FREEWAY WEST, SUITE 500  
HURST, TEXAS 75054-3286.**

---

Robert W. Potts  
Appeals Judge

CONCUR:

---

Judy L. S. Barnes  
Appeals Judge

---

Chris Cowan  
Appeals Judge